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# United States Senate

WASHINGTON, DC 20510-3603

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COMMITTEES:  
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Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Pruitt:

I am writing in support of the Environmental Protection Agency's (EPA) proposed rule to repeal the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, also known as the Clean Power Plan (CPP), as published in the Federal Register on October 16, 2017 (82 Fed. Reg. 48035). When the Supreme Court placed an unprecedented stay on the CPP in 2016, it was apparent that the rule would not withstand the many legal challenges it faced. The CPP is clearly unlawful because it exceeds the statutory authority conferred to the EPA by regulating beyond the plain language of its statutory authority and making policy decisions that have been reserved by Congress.

As Justice Scalia wrote in *Utility Air Regulatory Group v. EPA et al.*, "When an agency claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy, we typically greet its announcement with a measure of skepticism. We expect Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance." The CPP is a clear example of an agency discovering new authorities affecting an entire industry at great economic costs.

The Clean Air Act (CAA) limits the EPA's regulatory authority to pollutant emissions at the source. However, the CPP seeks to create a standard of performance that can only be determined through a sector-wide approach, transforming electricity generation nationwide. This expansive view of the CAA would affect activity well beyond regulated sources as delegated by Congress, making policy decisions reserved for the legislative branch.

While the EPA is charged with implementing the CAA, the CPP is an attempt by the agency to assume the role of Congress to set policies that will create significant economic and regulatory burdens on States by eliminating major sources of affordable energy and transforming an entire industry without realizing significant benefits. As stated in *Michigan v. EPA*, "No regulation is 'appropriate' if it does significantly more harm than good."

As recognized by Congress when it voted to disapprove of the final CPP rule at the end of 2015, "annual compliance costs [could] averag[e] \$29 billion to \$39 billion" and "losses to U.S. consumers [could] range from \$64 billion to \$79 billion," with most ratepayers expected to

experience “double digit rate increases” (H.R. Rep. No. 114-349). With estimates that global carbon dioxide emissions would only be reduced by less than 0.5 percent, it is clear that any perceived benefits of the CPP are far outweighed by the actual costs associated with complying with the rule.

It is for these reasons that I have long opposed the CPP and why I support the EPA’s decision to review and repeal the rule as proposed on October 16, 2017. If you have any questions please contact my office at 202-224-4721.

Sincerely,

A handwritten signature in blue ink, appearing to read "James M. Inhofe", is written in a cursive style.

James M. Inhofe  
United States Senator